

Boulder Utah
July 4, 1936

Mr. T. C. Humphreys
State Engineer
Salt Lake City, Utah

Dear Sir:

We are faced with a problem in the distribution of water from the East Fork of Boulder Creek. You are no doubt aware that all of the users on the system incorporated as Boulder Irrigation & Water Development Company have accepted the McCarty Decree as giving the primary rights of 24 c.f.s. and the decree as defining the respective rights in the Boulder Creek. We have two exceptions, Mr. Geo. Ormond and Mr. Jepson are not agreed to this distribution.

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After the Courts decision in 1901 it appears that some aggressive individual or individuals distributed the 9 1/2 of East Fork of Boulder on the basis of shares instead of according to the decree. I am unable to find any relative or logical reason for the shares. The most plausible being that of amount of ditch work done and no record of same is had, if this is the basis, and whether it was work done before or after the decree is just as vague. From the testimony of those present at the time of the Courts decree it is evident that the division by shares was not done either according to the decree

if it calls for the written consent of parties concerned neither by mutual consent. There would however be a legal point that in as much as it is claimed that the diversions awarded by the decree were never abided by and that it happened before the filing laws of 1903 that perhaps a right by use has been acquired at the expense of other users on the ditch.

The two dissenting parties also claim that the primary water should not be limited to the 24 c. f.s. It is evident that the Majority are not imposing something on the minority which they do not accept for themselves. I should hold that the dissenting parties have the right to recourse to law, and that the McCarty decree should be the basis of distribution until otherwise modified.

Mr. Ormond also claims the right to a culinary stream from a spring in Deer Creek Draw. He claims that his diversion was compensated for this, at the expense of the Mason Lyman Diversion. He stands alone in this claim. The general opinion is that he has the right to culinary water from the spring during the winter season when water is out of Boulder ditch.

We are planning to go over the system and place diversions according to the McCarty Decree on this stream. I should have liked to ~~consulted~~ with you on the matter. Any advice will be appreciated.

Yours truly,

Franklin C. Hansen

